

PCB JUVJ 06-03

ORIGINAL

2006

1 A bill to be entitled

2 An act relating to juvenile sexual offenders; amending s.
3 985.03, F.S.; defining the terms, "psychosexual
4 evaluation" and "qualified sexual offender therapist";
5 amending s. 985.229, F.S.; requiring the court to order a
6 psychosexual evaluation for a juvenile sexual offender;
7 specifying requirements for provision of the psychosexual
8 evaluation results and recommendations to the court;
9 amending s. 985.23, F.S.; requiring a predisposition
10 report to include an evaluation of the results and
11 recommendations of a psychosexual evaluation; amending s.
12 985.231, F.S.; conforming a cross-reference; requiring the
13 court to consider psychosexual evaluation prior to
14 imposition of a community-based juvenile sexual offender
15 treatment program; repealing authorization for a
16 comprehensive assessment of sexually deviant behavior;
17 revising terms to conform; amending s. 985.31, F.S.;
18 conforming cross-references; amending s. 985.3141, F.S.;
19 conforming a cross-reference; creating a task force on
20 juvenile sexual offenders and their victims; providing
21 membership; providing duties; requiring a report;
22 providing for administrative support; authorizing per diem
23 and travel reimbursement; providing for dissolution of the
24 task force; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (45) through (60) of section 985.03,
29 Florida Statutes, are renumbered as subsections (47) through

PCB JUVJ 06-03

ORIGINAL

2006

(62), and new subsections (45) and (46) are added to said section to read:

985.03 Definitions.--As used in this chapter, the term:

(45) "Psychosexual evaluation" means an evaluation by a qualified sexual offender practitioner, which addresses, at a minimum, a juvenile sexual offender's:

(a) Account of the incident and the official report of the investigation.

(b) Sexual development and sexual delinquency history and treatment.

(c) Behavioral and delinquency history.

(d) Substance abuse and mental health history and treatment.

(e) Intellectual, personality, and trauma assessment.

(f) Physiological assessment if appropriate.

(g) Family, social, educational, and employment situation, including identification of the sources of this information.

(h) Risk for committing a future act of sexual delinquency or physical harm to himself, herself, the victim, or other persons.

(i) Culpability assessment.

(j) Diagnosis.

(k) Amenability to treatment, including treatment recommendations specific to his or her needs.

(46) "Qualified Sexual Offender Practitioner" means a professional who is eligible to practice juvenile sexual offender therapy under s. 490.0145 or s. 491.0144, and who:

(a) Possesses at least:

1. Fifty-five hours of post-graduate degree continuing

PCB JUVJ 06-03

ORIGINAL

2006

59 education courses in one or more of the following areas: DSM-IV
60 diagnoses related to sexual offenders; etiology of sexual
61 deviance; science-based sexually delinquent evaluation and risk
62 assessment and treatment techniques; use of plethysmographs,
63 visual reaction time, and polygraphs in the evaluation,
64 treatment, and monitoring of juveniles who have committed
65 sexually delinquent acts; evaluation and treatment of special
66 populations; or legal and ethical issues in the evaluation and
67 treatment of juveniles who have committed sexually delinquent
68 acts.

69 2. Two thousand hours of post-graduate degree practice in
70 the evaluation and treatment of persons who have committed
71 sexually delinquent acts, which was directly supervised by a
72 professional eligible to practice juvenile sexual offender
73 therapy under s. 490.0145 or s. 491.0144; or

74 (b) Is supervised by a professional who satisfies the
75 requirements of paragraph (a).

76 Section 2. Subsection (4) of section 985.229, Florida
77 Statutes, is created to read:

78 985.229 Predisposition report; other evaluations.

79 (4) Following a delinquency adjudicatory hearing under s.
80 985.228 for a juvenile sexual offender, the court shall order the
81 department to conduct or arrange for a psychosexual evaluation of
82 the offender. The results and recommendations of the psychosexual
83 evaluation shall be:

84 (a) Included in the offender's predisposition report; or

85 (b) Provided to the court in writing at least 48 hours prior
86 to the disposition hearing, if a predisposition report is not
87 ordered in the juvenile sexual offender's case.

PCB JUVJ 06-03

ORIGINAL

2006

88 Section 3. Paragraph (i) of subsection (2) of section
89 985.23, Florida Statutes, is created to read:

90 985.23 Disposition hearings in delinquency cases.--When a
91 child has been found to have committed a delinquent act, the
92 following procedures shall be applicable to the disposition of
93 the case:

94 (2) The first determination to be made by the court is a
95 determination of the suitability or unsuitability for
96 adjudication and commitment of the child to the department. This
97 determination shall include consideration of the recommendations
98 of the department, which may include a predisposition report. The
99 predisposition report shall include, whether as part of the
100 child's multidisciplinary assessment, classification, and
101 placement process components or separately, evaluation of the
102 following criteria:

103 (i) The results and recommendations of a psychosexual
104 evaluation for a juvenile sexual offender.

106 At the time of disposition, the court may make recommendations to
107 the department as to specific treatment approaches to be
108 employed.

110 It is the intent of the Legislature that the criteria set forth
111 in subsection (2) are general guidelines to be followed at the
112 discretion of the court and not mandatory requirements of
113 procedure. It is not the intent of the Legislature to provide for
114 the appeal of the disposition made pursuant to this section.

115 Section 4. Subsections (2) and (3) of section 985.231,
116 Florida Statutes, are amended to read:

PCB JUVJ 06-03

ORIGINAL

2006

117 985.231 Powers of disposition in delinquency cases.--

118 (2) Following a delinquency adjudicatory hearing pursuant
119 to s. 985.228 and a delinquency disposition hearing pursuant to
120 s. 985.23 which results in a commitment determination, the court
121 shall, on its own or upon request by the state or the department,
122 determine whether the protection of the public requires that the
123 child be placed in a program for serious or habitual juvenile
124 offenders and whether the particular needs of the child would be
125 best served by a program for serious or habitual juvenile
126 offenders as provided in s. 985.31. The determination shall be
127 made pursuant to ss. 985.03(51) ~~985.03(49)~~ and 985.23(3).

128 (3)(a) Following a delinquency adjudicatory hearing pursuant
129 to s. 985.228 for a juvenile sexual offender, the court, after
130 consideration of the psychosexual evaluation required by s.
131 985.229(4), may on its own or upon request by the state or the
132 department and subject to specific appropriation, determine
133 whether a community-based juvenile sexual offender treatment
134 program would protect placement is required for the protection of
135 the public and what would be the best approach to address the
136 offender's treatment needs of the juvenile sexual offender. When
137 the court determines that a juvenile has no history of a recent
138 comprehensive assessment focused on sexually deviant behavior,
139 the court may, subject to specific appropriation, order the
140 department to conduct or arrange for an examination to determine
141 whether the juvenile sexual offender is amenable to community-
142 based treatment.

143 ~~(a) The report of the examination shall include, at a~~
144 ~~minimum, the following:~~

PCB JUVJ 06-03

ORIGINAL

2006

145 ~~1. The juvenile sexual offender's account of the incident~~
146 ~~and the official report of the investigation.~~

147 ~~2. The juvenile sexual offender's offense history.~~

148 ~~3. A multidisciplinary assessment of the sexually deviant~~
149 ~~behaviors, including an assessment by a certified psychologist,~~
150 ~~therapist, or psychiatrist.~~

151 ~~4. An assessment of the juvenile sexual offender's family,~~
152 ~~social, educational, and employment situation. The report shall~~
153 ~~set forth the sources of the evaluator's information.~~

154 ~~(b) The report shall assess the juvenile sexual offender's~~
155 ~~amenability to treatment and relative risk to the victim and the~~
156 ~~community.~~

157 (b) (e) The department shall provide a proposed plan to the
158 court that shall include, at a minimum, for the community-based
159 juvenile sexual offender treatment program:

160 1. The frequency and type of contact between the offender
161 and therapist.

162 2. The specific issues and behaviors to be addressed in the
163 treatment and description of planned treatment methods.

164 3. Monitoring plans, including any requirements regarding
165 living conditions, school attendance and participation,
166 lifestyle, and monitoring by family members, legal guardians, or
167 others.

168 4. Anticipated length of treatment.

169 5. Recommended crime-related prohibitions and curfew.

170 6. Reasonable restrictions on the contact between the
171 ~~juvenile sexual~~ offender and either the victim or alleged victim.

172 (c) (d) After receipt of the ~~report on the~~ proposed plan
173 under paragraph (b) ~~of treatment~~, the court shall consider

PCB JUVJ 06-03

ORIGINAL

2006

whether the community and the offender will benefit from a community-based ~~use of~~ juvenile sexual offender ~~community-based~~ treatment program ~~alternative disposition~~ and consider the opinion of the victim or the victim's family as to whether the offender should receive this ~~a community-based treatment~~ alternative disposition ~~under this subsection~~.

(d) ~~(e)~~ If the court determines that a community-based ~~this~~ juvenile sexual offender ~~community-based~~ treatment program ~~alternative~~ is appropriate, the court may place the offender on probation ~~community supervision~~ for up to 3 years. As a condition of probation ~~community treatment and supervision~~, the court may order the offender to:

1. Undergo available community-based ~~outpatient~~ juvenile sexual offender treatment for up to 3 years. A program or provider may not be used for such treatment unless it has an appropriate program designed for juvenile sexual offender treatment. The department shall not change the treatment provider without first notifying the state attorney's office.

2. Remain within described geographical boundaries and notify the court or the department ~~counselor~~ prior to any change in the offender's address, educational program, or employment.

3. Comply with all requirements of the treatment plan.

(e) ~~(f)~~ The community-based juvenile sexual offender treatment provider shall submit quarterly reports on the offender's ~~respondent's~~ progress in treatment to the court and the parties to the proceedings. The quarterly ~~juvenile sexual offender~~ reports shall reference the treatment plan and include, at a minimum, the following:

1. Dates of attendance.

PCB JUVJ 06-03

ORIGINAL

2006

203 2. The ~~juvenile-sexual~~ offender's compliance with the
204 requirements of treatment.

205 3. A description of the treatment activities.

206 4. The ~~sexual~~ offender's relative progress in treatment.

207 5. The offender's family support of the treatment
208 objectives.

209 6. Any other material specified by the court at the time of
210 the disposition.

211 (f) ~~(g)~~ At the disposition hearing, the court may set case
212 review hearings as the court considers appropriate.

213 (g) ~~(h)~~ If the ~~juvenile-sexual~~ offender violates any
214 condition of the disposition or the court finds that the ~~juvenile~~
215 ~~sexual~~ offender is failing to make satisfactory progress in
216 treatment, the court may revoke the offender's probation
217 ~~community-based treatment alternative~~ and order commitment to
218 the department pursuant to subsection (1).

219 (h) ~~(i)~~ If the court determines that the ~~juvenile-sexual~~
220 offender is not amenable to a community-based juvenile sexual
221 offender treatment program, the court shall proceed with a
222 juvenile sexual offender disposition hearing pursuant to
223 subsection (1).

224 Section 5. Paragraph (e) of subsection (3) and paragraph
225 (a) of subsection (4) and of section 985.31, Florida Statutes,
226 are amended to read:

227 985.31 Serious or habitual juvenile offender.--

228 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
229 TREATMENT.--

230 (e) After a child has been adjudicated delinquent pursuant
231 to s. 985.228, the court shall determine whether the child meets

PCB JUVJ 06-03

ORIGINAL

2006

the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(51) ~~985.03(49)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03(51) ~~985.03(49)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.
3. Tendency toward gang involvement.
4. Substance abuse or addiction and the level thereof.
5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.
6. Number and type of previous adjudications, findings of guilt, and convictions.
7. Potential for rehabilitation.

Section 6. Subsection (2) of section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.--An escape from:

(2) Any residential commitment facility described in s. 985.03(48) ~~985.03(46)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

PCB JUVJ 06-03

ORIGINAL

2006

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Task Force on Juvenile Sexual Offenders and their Victims—

(1) For purposes of this section, the term:

(a) "Department" means the Department of Juvenile Justice.

(b) "Task force" means the 2006 Task Force on Juvenile Sexual Offenders and their Victims.

(2) On or before August 1, 2006, there shall be created a task force to continue the evaluation of the state's juvenile sexual offender laws which was conducted by the 2005 Task Force on Juvenile Sexual Offenders and their Victims, as created in ch. 2005-263, Laws of Florida.

(3) The Secretary of the department shall appoint up to 12 members to the task force, who shall include, but are not limited to: a circuit court judge with at least one year of experience in the juvenile division, a state attorney with at least one year experience in the juvenile division, a public defender with at least one year of experience in the juvenile division, two representatives of the department, one member from the Florida Juvenile Justice Association, two members from providers of juvenile sexual offender services, one member from the Florida Association for the Treatment of Sexual Abusers, and one victim advocate.

(4) The task force shall:

(a) Review the findings and recommendations contained in the final report of the 2005 Task Force on Juvenile Sexual Offenders and their Victims, including the recommendations specified in

PCB JUVJ 06-03

ORIGINAL

2006

290 Appendix II of that report, and identify each recommendation that
291 has not yet been implemented.

292 (b) Determine which recommendations reviewed under paragraph
293 (a) remain appropriate for implementation.

294 (c) Make additional recommendations, if warranted, for the
295 improvement of the state's laws, policies, programs, and funding
296 for juvenile sexual offenders.

297 (d) Submit a written report to the Governor and the
298 appropriate substantive and fiscal committees of the Legislature
299 no later than January 1, 2007, that: discusses each state law
300 addressing juvenile sexual offenders; specifically identifies
301 statutory criteria that should be satisfied before a juvenile is
302 classified as a sexual offender or placed in sexual offender
303 programming; and sets forth detailed findings in support of each
304 recommendation under paragraphs (b) and (c) and a comprehensive
305 plan for implementation of these recommendations, including
306 proposed amendments to statute and modifications of state agency
307 rules, practices, and procedures.

308 (5) The department shall provide administrative support for
309 the task force. Members of the task force shall receive no salary
310 from the state beyond the salary already received from their
311 sponsoring agencies, but shall be entitled to reimbursement by
312 the department for travel and per diem expenses under s. 112.061,
313 Florida Statutes.

314 (6) The task force shall be dissolved upon submission of its
315 report.

316 Section 8. This act shall take effect July 1, 2006.